

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

**ALBERTO OVALLE,**

*Plaintiff,*

**V.**

**UNITED RENTALS (NORTH  
AMERICA), INC.,**

*Defendant.*

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**CIVIL ACTION  
2:18-cv-00211-D-BR**

**JURY TRIAL**

**DEFENDANT'S THIRD AMENDED EXHIBIT LIST**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now, Defendant United Rentals (North America), Inc., and files this, its Third Amended Exhibit List. Further, in compliance with the Court's Scheduling Order [Dkt. 66].

Judge Matthew J. Kacsmatyk	PLAINTIFF'S ATTORNEY: <b>CESAR TAVARES</b>	DEFENDANT'S ATTORNEY: <b>JEFF WRIGHT / RYAN FUNDEBRURG</b>
TRIAL DATE(S):	COURT REPORTER:	COURTROOM DEPUTY:

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
<b>1</b>	<b>Plaintiff's Statement (URI 00116 – 00117)</b>			
<b>2</b>	<b>Plaintiff's Employment Applications (URI 00118 – 00122)</b>		<b>Relevance</b>	
<b>3</b>	<b>04/10/2016 Offer of Employment from Defendant to Plaintiff (URI 00123)</b>			
<b>4</b>	<b>Plaintiff's Onboarding Form (URI 00124)</b>			
<b>5</b>	<b>Plaintiff's Employment Application (Cont'd) (URI 00125 – 00127)</b>		<b>Relevance</b>	
<b>6</b>	<b>Al Ovalle Performance Eval 2017 (URI 00106-00110)</b>			
<b>7</b>	<b>Incident Investigation Report (URI 00248 – 00250)</b>			

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
8	Time Records for Plaintiff (URI 00458)			
9	Time Records/Activity Report for Plaintiff (URI 00459)			
10	Farmer's Almanac Weather Data for Canyon, Texas 3/27/2017			
11	Farmer's Almanac Weather Data for Canyon, Texas 3/28/2017			
12	Training History for Plaintiff (URI 00142)			
13	Fire Safety and Winter Safety Training Documents (URI 00143 – 00156)			
14	Hazardous Material Communication Training Documents (URI 00157 – 00168)			
15	How Do You Work Safely (URI 00169 – 00179)			
16	Job Hazard Analysis HSES (URI 00180 – 00186)			
17	Stop Work Authority HSES (URI 00187 – 00192)			
18	Personal Protective Equipment HSES (including Fall, Hearing & Respiratory Protection) (URI 00199 – 00216)			
19	HSES Meeting Requirements (URI 00235 – 00241)			
20	Incident Reporting (URI 00137-00141, 00251 – 00256)			
21	Line of Fire and Hand Safety (URI 00257 – 00269)			
22	Lock Out/Tag Out (URI 00270 – 00281)			
23	Hazard 360 Making Safety Second Nature (URI 00282 – 00290)			
24	Nurse Line and First Aid (URI 00291 – 00305)			
25	Team United: Playing it Safe (URI 00306 – 00324)			
26	Employee Safety and Health Policy Procedures Bulletin (URI 00325 – 00329)			
27	Personal Safety Responsibility – Policy and Procedure Bulletin (URI 00330 – 00337)			
28	Safe Driving (URI 00338 – 00342)			
29	Safe Loading and Unloading (URI 00343 – 00354)			
30	Safety Is A Core Value (URI 00355 – 00364)			
31	Hazard 360 (URI 00365 – 00376)			

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
32	Summer Safety (URI 00377-00391)			
33	Deposition by Written Questions of Advanced Imaging Center of Amarillo for 22 pages of medical records pertaining to Alberto Ovalle and (1) CD of radiology records (URI 00460 – 00496)		Object to everything other than 481-496 (redacting license number) as irrelevant	
34	Deposition by Written Questions of Amarillo Bone & Joint Clinic for 28 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 00511 – 00551)		Relevance (all deal with a pre-existing shoulder surgery)	
35	Deposition by Written Questions of Amarillo Family Physicians for 40 pages of medical records pertaining to Plaintiff Alberto Ovalle, and supplemental medical records (URI 00567 – 00607, URI 02943 - 03152)		Object to any prior record other than the one that states he was having some back pain November of 2016.	
36	Deposition by Written Questions of BSA Health System for 1566 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 00645 – 02223)			
37	Deposition by Written Questions of High Pains Neurosurgery for 99 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 02275 – 02392)		2365-2390 no objection The rest, we object based on relevance and because of unfair prejudice. These records deal with unrelated illnesses and injuries.	
38	Deposition by Written Questions of Interim Healthcare of West Texas, LLC for 81 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 02393 – 02488)		Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.	

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
<b>39</b>	<b>Deposition by Written Questions of Lawrence Shaeffer, MD for 7 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 02489 – 02510)</b>		<b>Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.</b>	
<b>40</b>	<b>Deposition by Written Questions of Southwest Neuroscience for 195 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 02602 – 02811)</b>		<b>Object to 2626 as irrelevant and unfairly prejudicial. Short-term disability claim for prior injury. 2628-2634, Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.</b>	
<b>41</b>	<b>Deposition by Written Questions of Total Physical Therapy for 7 pages of medical records pertaining to Plaintiff Alberto Ovalle (URI 02921 – 02942)</b>		<b>Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.</b>	
<b>42</b>	<b>Deposition by Written Questions of Advanced Imaging Center of Amarillo for radiology records pertaining to Plaintiff Alberto Ovalle (URI 03665)</b>			
<b>43</b>	<b>Deposition by Written Questions of Amarillo Family Physicians Clinic for radiology records pertaining to Plaintiff Alberto Ovalle (URI 03666)</b>			

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
<b>44</b>	<b>Deposition by Written Questions of Texas Oncology for 95 medical records pertaining to Plaintiff Alberto Ovalle (URI 03818 - 04913)</b>		<b>With the exception of 3836-3841, Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.</b>	
<b>45</b>	<b>Deposition by Written Questions of Texas Oncology for radiology records pertaining to Plaintiff Alberto Ovalle (URI 04914 - 04945)</b>		<b>Objection because the evidence is irrelevant and unfairly prejudicial. Deals with unrelated injuries.</b>	
<b>46</b>	<b>Records obtained via Deposition by Written Questions from Social Security Administration pertaining to Plaintiff Alberto Ovalle (URI 3153-3652)</b>		<b>Objection for relevance and because it is unfairly prejudicial because it introduces evidence of a collateral source of recovery. It is also duplicative of other medical records.</b>	

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
47	Deposition by Written Questions of Medley Equipment for 84 pages of employment records pertaining to Plaintiff Alberto Ovalle and 5 supplemental pages (URI 02511 – 02601, URI 02909 - 02920)		Objection because the information is irrelevant and because it is misleading and confusing. These are all past employment records that have nothing to do with the case. To the extent these are being offered for purposes of showing some prior improper conduct, they are an improper use of character evidence.	
48	Deposition by Written Questions of Stewart Stevenson for 85 pages of employment records pertaining to Plaintiff Alberto Ovalle (URI 02812 – 02908)		Objection because the information is irrelevant and because it is misleading and confusing. These are all past employment records that have nothing to do with the case. To the extent these are being offered for purposes of showing some prior improper conduct, they are an improper use of character evidence.	
49	Marked Exhibit 9 (photograph) from Plaintiff's August 19, 2019 deposition			
50	Dr. Ricky Kalra, MD Expert Report (URI 03653 – 03662, 03664)		Objection because the report is hearsay.	

EXHIBIT	DESCRIPTION (INCLUDING BATES NUMBER IF APPLICABLE)	OFFERED	OBJECTION / DENIED	AGREED / ADMITTED
<b>51</b>	<b>Facility Photographs where alleged incident occurred (URI 03667 – 3726)</b>			
<b>52</b>	<b>Photographs of Plaintiff Alberto Ovalle and activities he has performed post-accident date (URI 03727 – 03811)</b>		<b>Object because these photographs are irrelevant and because the photographs would mislead the jury and are unfairly prejudicial.</b>	
<b>53</b>	<b>Videos of Plaintiff Alberto Ovalle dancing (URI 03812 – 03816)</b>		<b>Object because this video is irrelevant and because the video would mislead the jury and is unfairly prejudicial.</b>	
<b>54</b>	<b>September 15, 2020 Audio Recording between witnesses Juanita Garza and Robert Alonzo (URI 03817)</b>		<b>Object because the video is hearsay and because it irrelevant and unfairly prejudicial.</b>	
<b>55</b>	<b>Demonstrative Aids</b>			

1. Defendant United Rental (North America), Inc. reserves the right to use other demonstrative aides that may be created between now and the time of trial, including blow-ups or enlargements of any of the above.

2. Defendant United Rental (North America), Inc. may use documents produced by and/or requested from Plaintiff.

3. All exhibits listed by the Plaintiff and not ultimately objected to by Defendant United Rental (North America), Inc.

4. All exhibits to all depositions taken in this matter, and not ultimately objected to by Defendant United Rental (North America), Inc.

5. Defendant United Rental (North America), Inc. reserve the right to amend and/or

supplement their Trial Exhibit List, following stipulations by counsel and/or rulings by the Court.

Respectfully submitted,

**FEE, SMITH, SHARP & VITULLO, LLP**

*/S/ JEFF C. WRIGHT*

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**ATTORNEYS FOR DEFENDANT**

-and-

**OBJECTIONS TO DEFENDANT'S EXHIBITS  
ASSERTED BY**

**WILLIAMS HART BOUNDAS EASTERBY, LLP**

*By: /s/ Cesar Tavares*

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**ATTORNEYS FOR PLAINTIFFS**



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the above and foregoing document has been E-served upon all counsel of record on this the 22<sup>nd</sup> day of February, 2021.

*/s/ Jeff C. Wright*

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**JEFF C. WRIGHT**